

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

BEN ELIAS INDUSTRIES  
CORPORATION

Plaintiff

VS.

DILLARD'S INC.

Defendant

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NO: 4:05CV00551 SWW

**ORDER**

Before the Court is Plaintiff's motion for voluntary dismissal (docket entry #3). Federal Rule of Civil Procedure 41(a) governs the voluntary dismissal of actions, and provides that after an answer or motion for summary judgment has been filed by a defendant, a plaintiff may not dismiss his action without prejudice "save upon order of the court and upon such terms and conditions as the court deems proper."

Pursuant to Federal Rule of Civil Procedure 41(a), Plaintiff's motion for voluntary dismissal (docket entry #3) is GRANTED. This action is DISMISSED WITHOUT PREJUDICE, on the condition that before Plaintiff may re-file an action against Defendant arising from the same facts and occurrences involved in the present action, it must pay Defendant any duplicative costs, expenses, and fees it incurred in the present action.

IT IS SO ORDERED THIS 6<sup>th</sup> DAY OF JULY, 2005.

/s/Susan Webber Wright

CHIEF JUDGE  
UNITED STATES DISTRICT COURT